

Case No. 19-18-7870

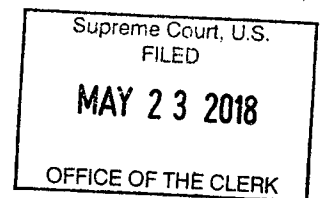
In the
Supreme Court Of The United States

USA
Respondent,

v.

JEREMIAH WILLIAM BALIK
Petitioner.

ORIGINAL



*On Petition for a Writ of Certiorari to the United States Court of Appeals
for the Ninth Circuit #18cv55216
On appeal from USDC Central District of California - Case No. 2:18-cr-00063-MWF,
emanating from Santa Barbara Superior Court Case No. 18CR00264*

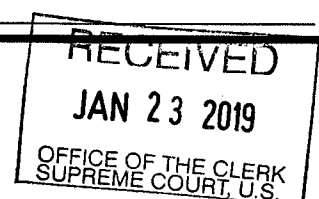
PETITION FOR WRIT OF CERTIORARI

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January 1, 2019

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Petitioner, In Propria Persona



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1. QUESTIONS/ISSUES PRESENTED FOR REVIEW

1.)The Court of Appeal is a Court of Law. The Court reviews the trial courts and lower appellate tribunal's legal rulings for error. Did **Harmful legal error** occur per #18cv55216, *USA v. Balik*, USCA 9th Circuit, #18cr00063-MWF, *People v. Balik*, USDC Central District of California, and #18cr00264, *People v. Balik*, Santa Barbara Superior Court?

2.)Interlocutory issues with Petition. An **interlocutory appeal** is an **appeal** of a ruling by a trial court that is made before the trial itself has concluded. It asks an appellate court to review an aspect of the case before the trial has concluded. Petitioner filed petition for en banc rehearing per #18cv55216. Petitioner received dismissal order from USCA 9th Circuit on May 17th, 2018 and Mandate on October 12, 2018. Did USCA panel Article III Judge Silverman, Judge Bea and Judge Watford got it wrong? #18cv00264 is still active; Petitioner is waiting for trial date and is represented via a Santa Barbara County Public Defender/Court Directed Attorney Gregory. Next hearing is February 20, 2019 with Judge Thomas Adams in Department 10 of Santa Barbara Superior Court. ["SBSC"] Is SBSC giving Petitioner full due process under the law?

3.)Why is the United States Court of Appeals, for the Ninth Circuit the most overturned Federal Appellate court in the United States by SCOTUS?

4.)Armed Services "Status" – Under narrow and limited circumstances, state-court criminal prosecutions may be removed to federal court. Any officer of the United States or its courts, any officer of either House of Congress, or any member of the U.S. armed forces subject to criminal prosecution may remove such an action if it arises from acts done under color of such office or status. See 28 U.S.C. §§ 1442(a), 1442a. "A civil or criminal prosecution in a court of a State of the United States against a member of the armed forces of the

1 United States on account of an act done under color of his office or status” Status may need
2 to be challenged, Petitioner assumes this means “active duty” status. The language is
3 ambiguous; Do all 22 million U.S. Veterans have “Armed Forces Status” and thus legal
4 removal rights under 28 US Code § 1442a? Should Petitioner, being an Operation Iraqi
5 Freedom Veteran, having served in the US Army and US Navy, be able to remove under
6 (supra) statute?
7

8 5.) Does Petitioner meet/satisfy two-part test articulated by the Supreme Court in *Georgia v. Rachel*,
9 384 U.S. 780, 788-92, 794-804, 86 S. Ct. 1783, 16 L. Ed. 2d 925 (1966), and *City of*
10 *Greenwood, Miss. v. Peacock*, 384 U.S. 808, 824-28, 86 S. Ct. 1800, 16 L. Ed. 2d 944
11 (1966)?

12 6.) Did District Judge Michael W. Fitzgerald and or clerks properly review Petitioner’s notice for
13 removal pleading? Per Judge Fitzgerald’s opinion/order, he references the 6th Amendment
14 improperly. Petitioner brought up 6th Amendment per Santa Barbara Superior Court traffic
15 infraction case #B777843, *People v. Balik*. #B777843 presiding Judge James Herman
16 denied Petitioner from direct cross-examination of a Santa Barbara Police Department
17 Office Rapp; did Judge Herman violate Petitioner’s 6th Amendment rights? Should
18 Petitioner’s criminal case be removed to federal court on the basis that Petitioner’s
19 prosecution in state court violates his rights under the Fourth and Sixth Amendments?
20 (Notice of Removal at 3).”

21 7.) Was District Judge Fitzgerald randomly selected to preside over #18cr00063? Petitioner hates no
22 one, with this being said, Petitioner promulgates a Biblical Leviticus 18:22 towards
23 homosexuality and the LGBTQ movement. Petitioner may have a lesbian niece Allison
24 Clements, 4th year student at the University of Iowa – Petitioner still loves her, however
25 Petitioner opposes her homosexual lifestyle. What was the District Court’s process for
26 selecting Judge Fitzgerald? Because Petitioner was prejudiced by Judge Fitzgerald’s openly
27 gay lifestyle, did Judge Fitzgerald make a biased decision? Should Judge Fitzgerald have
28 recused himself?

1 8.)Did District Judge Fitzgerald error in not mentioning 14th Amendment in his ruling? Was
2 Petitioner denied opportunity to further explicated 14th Amendment/Civil Rights of 1964
3 Act, due process 14th Amendment violations?
4 Dkt #18. Petitioner attempted to remove criminal matter under #2:17-cv-04906-GW(PLAx),
5 because IFP status had been granted by USCA 9th Circuit. Petitioner was on calendar March
6 1st, 2018 with Judge Wu, until Judge Wu denied request pending USCA 9th Circuit judicial
7 review. Did Judge Wu error?

8
9 9.)Has there been too much Judicial Inaction per #18cr00264 SBSC? – the instant case has gone
10 through the following Santa Barbara Superior Court Judges – 1/11/2018- Arraignment on
11 very weak DA complaint hearing, Judge Clifford R. Anderson III. While in custody,
12 Petitioner had initial hearing on 1/10/2018 and was not seen by Judge Anderson III; sat in
13 holding area at Santa Barbara Superior Court Figueroa Division courthouse. 1/19/2018-
14 Veterans Treatment Court [“VTC”], presiding Judge Monica Marlow. It was determined
15 that Petitioner does not qualify for VTC; yet at every hearing, public defenders are pushing
16 VTC on Petitioner. Petitioner has told public defenders and Judge's, Petitioner does not want
17 to go through VTC, even if Petitioner did qualify. 1/26/2018 – Readiness & Settlement
18 conference, Judge Michael Carrozzo, department 12. Petitioner was on morning calendar
19 and was not called until afternoon calendar. Parties stipulated to continue matter – time
20 waiver. Petitioner sat around all day only to continue the hearing. 3/23/2018 – Readiness &
21 Settlement Conference, Judge Carrozzo. Matter was continued pending #18cv55216
22 outcome. Court et al wanted to see if US Attorney Ashley Aull would reply to Petitioners
23 Appellant Opening Brief [“AOB”], US Attorney Aull did not reply per #18cv55216 briefing
24 schedule, reply was due May 16, 2018. Next hearing is set for 2/22/2019, Readiness &
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1 Settlement Conference, with Judge Thomas Adams. Petitioner does not find it coincidental,
2 that Judge Adams is from the same home state of Iowa as Petitioner. Petitioner has drawn
3 up motion to dismiss briefs pursuant to PenCode§1385, for public defender to timely file.
4 #18cv55216 en banc hearing may cause further delay. It also should be noted, Judge
5 Carrozzo has been swapped for Judge Adams. Judge Carrozzo [former U.S. Army JAG and
6 Santa Barbara County District Attorney] is now presiding over the VTC. Petitioner has had
7 the following Santa Barbara County Public Defenders ["SBCPD"] – Rachel Solomon, A.
8 Steele, Mary Huft [maternity leave] and now Susan Sindelar. 5/23/2018 – 1/16/2019 –
9 Judge Thomas Adams is now presiding. From Jan 2018 to Jan 2019, two motions have been
10 filed; one for dismissal PC § 1385 and one for discovery. Motions and reply briefs are filed
11 per #2:18cv02174-RFB, *Balik v. City of Torrance, et al*, USDC District of Nevada. From
12 Jan 2018 to Feb 2019 – have PC § 1050 or Continuances have been over granted? Trial is
13 tentatively set for 2/22/2019.

- 16 10.) What are the ramifications of US Attorney Ashley Aull not replying to Petitioners AOB? –
17 Petitioner proffers that US Attorney Aull not answering AOB is significant, is it significant.
18 Did Harvard Law trained US Attorney Aull demonstrate it would be a waste of her time and
19 thus not answer because of the very weak Santa Barbara County District Attorney's
20 complaint? Does US Attorney Aull's non-answer, suggest there is no case? Unless Santa
21 Barbara Superior Court rigs the judicial proceedings; gets jurors via vior dire that will hand
22 down Petitioner, a guilty verdict no matter what; can "People" meet the criminal standard
23 for "guilty beyond a reasonable doubt"? Has the Court seen similar circumstances where
24 Respondent/People/USA had no cogent response on the merits of a criminal case?
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- 1 11.) Did the USCA 9th Circuit err in concluding Petitioner does not have removal rights under 28
2 US Code Section 1442(a) and err in its hasty dismissal? – Petitioner finds it very curious
3 that USCA 9th Circuit Panel Jurist Silverman, Bea and Watford would dismiss #18cv55216
4 a day after US Attorney Aull did not file response brief and ahead of May 23rd #18cr00264
5 hearing. Was affirming #18cr00063’s opinion as “frivolous” an aide to People? Has there
6 been any “judicial collusion”?
- 7
- 8 12.) Have there been any under handed California Judicial Council tactics? – IP surveillance
9 cameras that were in Courtroom 12 and outside courtroom 12, SBSC – Figueroa division
10 courthouse have been taken down as of 3/23/2018. Petitioner has been barred from both
11 SBSC Courthouses and perimeters. Petitioner can only show up to court when on calendar.
12 The IP Surveillance camera outside courtroom 12 captured the “alleged battery encounter
13 with one of Santa Barbara County Sheriff’s Dept [“SBSO”] deputies. The IP surveillance
14 cameras in SBSC Anacapa division captured the remaining two “alleged battery encounters”
15 with SBSO. See #B289423 2nd Appellate District case, *People v. Balik*. Matter was appealed
16 to Supreme Court of California. Per Discovery, Petitioner found out IP Surveillance cameras
17 were conveniently inoperable during “alleged battery incidences”. Was cameras being
18 inoperable planned?
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- 21 13.) The Court has held that the Sixth Amendment, in addition to guaranteeing the right to
22 retained or appointed counsel, also guarantees a defendant the right to represent himself. Are
23 Petitioner’s constitutional right to self-representation being violated? Petitioner is banned
24 from the SBSC Courthouses – can only come to SBSC Courthouses if on calendar. Could
25 any reasonable attorney or ProPer litigate a case under these conditions?
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1 14.) "Bargaining Chip Instant Cases" – Was #18cr00264 and dilatory SBSC proceedings meant
2 as a bargaining chip for the following three cases? 1.) #15K05516, *Balik v. Chocolate*
3 *Shoppe Ice Cream Company, Inc*, LASC Stanley Mosk. Case was docketed with SCOTUS,
4 #16-9022. Sounds incredulous, however, the instant case implicates US Congressman Fred
5 S. Upton [MI, 6th District] Defendant did not answer complaint, Petitioner has moved court
6 per Default Judgment pursuant to CCP § 585. Limited civil breach of contract case
7 compensatory damages \$25,000.00 – Case was dismissed October 10th, 2018 – US Rep Fred
8 Upton was mentioned in dismissal documents – See Appendix 2.) #T570850, *People v.*
9 *Balik*, LASC Torrance Courthouse. Petitioner alleges US Rep. Fred Upton and or Mayor
10 Rahm Emanuel {Chicago} prompted Torrance Police Dept., to issue citation. Traffic
11 enforcement was caught on IP surveillance cameras, YMCA Southbay/Torrance parking
12 park. Torrance Prosecuting City Attorney JM Litvin lied in her opposition brief to
13 Petitioners motion to dismiss. Torrance City Attorney Litvin stated Petitioner got out of
14 vehicle and approached citing Torrance Police Dept., Officer Weldin in a hostile manner.
15 Have not citizens been shot by law enforcement agencies ["LEAs"] around the country for
16 this type of aggressive action? IP surveillance digital tape backup from the YMCA
17 Southbay/Torrance shows Petitioner stayed in vehicle. Torrance PD Officer Weldin
18 unnecessarily handcuffed Petitioner. Petitioner subpoenaed YMCA Southbay/Torrance
19 numerous times – YMCA's Anel Henry did not answer [admission of guilt, probably
20 pressured by City of Torrance]. Petitioner was also barred from YMCA Southbay/Torrance
21 shortly after.

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27 In summary, there is serious police misconduct – Petitioner has had two vehicle code
28 violations dismissed by Judge Sandra Thompson. Judge Thompson stayed sentencing per

1 #T570850, per Petitioner bringing Veh Code § 26708(a) (1) “Tinted windows” petition
2 before the Supreme Court of California. Petitioner filed petition for review with Supreme
3 Court of California [“SCOC”] and is not pursuing it further. Via motion practice, petitioner
4 got a \$1380.00 citation reduced to \$100.00. Case closed 6/11/2018.

5
6 3.) #17cv56066, *Balik v. Walt Disney Company, Inc* et al, USCA 9th Circuit – a *Desney v.*
7 *Wilder* breach of implied-in-fact contract case that primarily implicates Mayor Rahm
8 Emanuel and his brother, WME/IMG Entertainment Co-CEO Ari Emanuel.

9
10 15.) Substantive due process ramifications. Substantive due process is the notion that due
11 process not only protects certain legal procedures, but also protects certain rights unrelated
12 to procedure. Does #18cr00264 violate substantive due process?

13
14 16.) . California’s working legal definition of “battery” in California. How does this court
15 construe battery against a peace officer? Is lightly bumping shoulders of a peace officer in a
16 non-offensive manner truly battery?; assuming arguendo if bumping shoulders is battery --
17 do American’s commit battery every day at shopping malls and supermarkets around the
18 country? **Constitutionality of California battery charges application - PC241(c) and**
19 **PC243(b).**

20
21 17.) Is Petitioner being barred from Santa Barbara Superior Court [“SBSC”] courthouses [both
22 Anacapa and Figueroa divisions] a US Constitutional violation? Santa Barbara County
23 Sheriff’s Department [“SBSO”] deputies that filed charges being present at courthouse and
24 courtroom 12 [Courtroom 12, Judge Michael Carrozzo]. SBSO deputies being present, other
25 than on the witness stand, create a hostile environment? [Due process violation?] Petitioner
26 has also had mail tampering issues – see filed USPIIS complaint #HQ137781232. Is not
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1 being able to physically file (ProPer) documents a constitutional violation? *McKaskle v.*
2 *Wiggins*

3
4 18.) California Code, Evidence Code EVID § 115:

5 “Burden of proof” means the obligation of a party to establish by evidence a requisite degree of
6 belief concerning a fact in the mind of the trier of fact or the court. The burden of proof may
7 require a party to raise a reasonable doubt concerning the existence or nonexistence of a fact or that
8 he/she establish the existence or nonexistence of a fact by a preponderance of the evidence, by clear
9 and convincing proof, or by proof beyond a reasonable doubt.

10 Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the
11 evidence. Does court contend battery charges PC241(c) and PC243(b) are weak at best and that
12 People of the State of California/USA cannot meet the burden of proof criminal standards?
13

14 Exoneration – does IP cameras being inoperable raise *Trombetta-Youngblood* concerns?
15

16 19.) ***Did Judge Fitzgerald/#18cr00063 error in summarily dismissing Petitioners’ Civil Rights***
17 ***argument/ violation 42 USC § 1983? Petitioner plead more than a sufficient amount of***
18 ***plausible on its face factual matter; Should Judge Fitzgerald have accepted Petitioner’s***
19 ***argument as true? At Iqbal/Twombly***
20

21 20.) Related case – #16-16555 *Balik v. City of Cedar Falls, et al*, dismissed Ninth Circuit Court
22 of Appeals 1983 case. SBSO and City of Santa Barbara {Santa Barbara Police Dept.} were
23 co-defendants in “1983” case. Ninth Circuit justices MARY M. SCHROEDER, MICHAEL
24 DALY HAWKINS and N. RANDY SMITH dismissed matter August 16th, 2017. Perhaps
25 Santa Barbara Superior court recordings/transcripts were given to Ninth Circuit.
26

27 Background note: Per SBSC traffic infractions cases #B777843 and #S249977; audio
28

1 recordings of traffic trails were done unbeknownst to Petitioner. Is this activity
2 underhanded? Was there collusion with SBSC – (secret) recordings to get #16-16555
3 dismissed?

4 21.) CCP § 397(b) - The court may, on motion, change the place of trial in the following cases
5 (b) When there is reason to believe that an impartial trial cannot be had therein. Petitioner is
6 aware under Peacock, 384 U.S. at 832 (petitioners alleged they were entitled to remove their
7 criminal misdemeanor proceedings to federal court based on their race and their belief they
8 would be unable to obtain a fair trial in the state court; the Supreme Court deemed this a
9 “strained interpretation of § 1443(1)” and noted if this interpretation were to prevail, “every
10 criminal case in every court of every State -- on any charge from a five dollar misdemeanor
11 to first-degree murder -- would be removable . . . upon a petition alleging (1) that the
12 defendant was being prosecuted because of his race and that he was completely innocent of
13 the charge brought against him, or (2) that he would be unable to obtain a fair trial in the
14 state court”). Does Petitioner meet two-part standard under 28 US Code § 1443? Can a fair
15 trial be had with SBSC per CCP § 397?

16 22.) SBSO Retaliation issues – Petitioner sent some 385 pieces of communication to SBSO
17 Under Sheriff Samuel Gross. [recently retired] Petitioner also subpoenaed SBSO Sheriff Bill
18 Brown and SBSO was a co-defendant in #16-16555 and instant case #2:18cv-02174-RFB,
19 *Balik v. City of Torrance et al*, USDC District of Nevada. Petitioner took exsusive “good
20 faith” steps to resolve issues with SBSO. SBSO retaliated by filing weak battery charges
21 against Petitioner with DA. [Note: on Twitter post from handle @appdriventoy,
22 @jeremiahwbalik, @W_ProphetBalik Petitioner called SBSO “Barney Fife Sheriff’s Dept.”
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1 Is Petitioner aggrieved party? Did SBSO error in not properly addressing Petitioners
2 grievances? [Note: Petitioner finally met Sheriff Bill Brown on December 11, 2018.]

3 23.) Jurist Alex Kosinski "LEA Pinging" Petitioner alleges SBSO engaged in misconduct, racial
4 profiling and 4th Amendment violations. Petitioner further alleges SBSO deputies pinged
5 Petitioners' Verizon/Sprint smart device(s) to gain Petitioners' whereabouts. See Judge Alex
6 Kosinski pontificate about matter, YouTube video "From Communism to Ninth Circuit",
7 48:18 minute mark <https://www.youtube.com/watch?v=dUYpBqLVe7U>
8

9 24.) Nexus between #18cv55216 and Los Angeles Superior Court ["LASC"] case #15K05516,
10 *Balik v. Chocolate Shoppe Ice Cream Company, Inc.* Petitioner proffers #18cr00264, *People*
11 *v. Balik*, SBSC is meant as a "bargaining chip" – try and get Petitioner to dismiss civil
12 litigation in which shady, lying, corrupt, hateful politicians [Rep. Fred Upton, Mayor Rahm
13 Emanuel/Chicago] are implicated. See also LASC Appellate case #BR053573 *People v.*
14 *Balik*, #17-56066, *Balik v. Walt Disney Company, Inc. et al*, 9 Cir, #16-9022 *Balik v.*
15 *Chocolate Shoppe Ice Cream Company, Inc et al*, docketed with THE SUPREME COURT
16 OF THE UNITED STATES.
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19 FedEx CD from 22MAY17 FedEx Office Mountain View, CA incident implicating US Rep
20 Fred Upton. Lodged CD / Transmitted exhibit with USCA Ninth Circuit per #17-56066.
21 Dkt# Petitioner respectfully request Chief Justice/Justices watch CD. What are implications
22 of a sitting US Congressman being implicated in case?
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25 25.) Scheduling – Petitioner was not given opportunity to extend due date of AOB #18cv55216.
26 Is this a USCA 9th Circuit error?
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- 1 26.) Law Enforcement Agency [“LEA”] misconduct. Petitioner alleges SBSO engaged in
2 misconduct. {Affirmative defense} Petitioner had traffic infraction case #E156106, *People*
3 *v. Balik*, LASC Chatsworth suspended with fees also suspended by Commissioner Nancy
4 Pogue on January 3, 2018. Petitioner successfully pled sufficient factual matter, to allow the
5 Court to draw a reasonable inference that People [Los Angeles Police Dept, Topanga
6 Division] was guilty of alleged misconduct. Does the court believe SBSO engaged in racial
7 profiling and violated Petitioner’s 4th Amendment right via technology enablement? Does
8 the court believe this case would exist in an age without the internet/smart phones/GPS –
9 Location Based Services [“LBS”] and the like?
10
11 27.) Comparison/Related case – celebrity Heather Locklear committing “battery” on three
12 Ventura County Sheriff Dept. deputies. [http://deadline.com/2018/02/heather-locklear-arrested-](http://deadline.com/2018/02/heather-locklear-arrested-suspicion-domestic-violence-1202303246/)
13 [suspicion-domestic-violence-1202303246/](http://deadline.com/2018/02/heather-locklear-arrested-suspicion-domestic-violence-1202303246/) See *People v. Heather Deen Locklear*, #2018006649,
14 Ventura Superior court. Petitioner communicated with Heather Locklear’s attorney, Bill
15 Haney & Blair Berk. Heather Locklear even liked some of Petitioners tweets per her instant
16 case & Petitioners. Does the Court believe in a tiered or bifurcated judicial system? Will
17 Petitioner be treated as fair under the law as celebrity Heather Locklear?
18
19 28.) Reasonable Jury question - Justice Scalia explained, “A reviewing court can only engage in
20 pure speculation—its view of what a reasonable jury would have done. Would a reasonable
21 jury would dismiss #18cr00264 SBSC, and #18cr00063 USDC –Central District of CA?
22
23 29.) Is solicitation of Harvard Law Prof. Emeritus Alan Dershowitz, Harvard Law Veteran legal
24 clinic, Yale Dean Heather Gerken, Stanford & Northwestern Law & Jay Sekulow to file an
25 Amicus Curiae Brief in Petitioners favor a problem?
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- 1 30.) Ramifications of Courts ruling per #16-402, *Timothy Carpenter v. United States*? Law
2 Enforcement Agencies will continue to “ping” phones without warrants. Sometimes they
3 may need to, to justify probable cause to get a warrant issued. Does court believe SBSO
4 used technology to increase frequency of run-ins with Petitioner in SBSC Courthouse? Is it
5 plausible on its face?
6
7 31.) Is FBI Headquarters providing exculpatory corroborating evidence a problem?

8
9 **2. PARTIES**

- 10 1. US ATTORNEY GENERAL MATTEW WHITAKER {WILLIAM PELHAM BARR}
11 2. US ATTORNEY ASHLEY AULL
12 3. CALIFORNIA ATTORNEY GENERAL XAVIER BECERRA
13 4. SANTA BARBARA COUNTY DISTRICT ATTORNEY JOYCE E. DUDLEY/
14 MICHELLE D. LOAKES
15 5. COURT DIRECTED ATTORNEY [CALIFORNIA STATE INSTANT CASE] –
16 GREGORY I. MCMURRAY
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20 2. *City of Greenwood, Miss. v. Peacock*, 384 U.S. 808, 824-28, 86 S. Ct. 1800, 16 L. Ed. 2d 944
21 (1966).

22 3. *Hamm v. City of Rock Hill*, 379 U.S. 306 (1964)

23 4. *AMANI CYPHER EL v. LOS ANGELES POLICE DEPARTMENT, et al.*, No. CV 16-7013-
24 JAK (PLA), 2016 WL 5419402, at *2 (C.D. Cal. Sept. 27, 2016)
25
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5. *Lochner v New York*, 198 U.S. 45 (more) 25 S. Ct. 539; 49 L. Ed. 937; 1905 U.S. LEXIS 1153. Economic substantive due process may be dead, however, substantive due process is not, especially in regard to criminal proceedings.
6. *People v. Espinoza*, 233 Cal. App. 4th 914, 183 Cal. Rptr. 3d 289, 2015 Cal. App. LEXIS 77 (Cal. App. 6th Dist. Jan. 28, 2015) – due process, lack of it.
7. *Balik v. City of Cedar Falls, et al.*, 2016 WL 4492589
8. *State v. Tribble*, 2012 VT 105
9. *People v. Waidla* (2000) 22 Cal.4th 690, 717 [94 Cal.Rptr.2d 396, 996 P.2d 46. Review claims regarding a trial court's ruling on the admissibility of evidence for abuse of discretion.
10. *People v. Smith* (1975) 53 Cal. App.3D 655, 657
11. *People v. Superior Court (Flores)* (1989) 214 Cal.App.3D 127, 137
12. *Porter v. McCollum*, 2009, 130 S. Ct. 447, 455-456
13. *Bell Atl Corp. v Twombly*, 550 U.S. 544, 570, (2007)
14. *Ashcroft v. Iqbal*, 556 U.S. 662, 678-679 (2009)
15. *Brady v. Maryland* (1963) 373 US 83, 83 S Ct 1194

4.CITATIONS OF THE OFFICIAL AND UNOFFICIAL REPORTS OF THE OPINIONS AND ORDERS ENTERED IN THE CASE

Orders from USCA 9th Circuit attached hereto in Appendix. One order and one mandate per rehearing en banc petition denial.

Minute orders from California State case #18cr00274, attached hereto in Appendix.

5.JURISDICTION

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1) and State jurisdiction [if necessary] is invoked under 28 U. S. C. § 1257(a); Court has Subject Matter Jurisdiction and Jurisdiction over lower court judgments. 28 U.S. Code § 2101

(i) The date the judgment or order sought to be reviewed was entered (and, if applicable, a statement that the petition is filed under this Court's Rule 11); October 12, 2018 – Rule 11 & 28 US Code § 2101(e) does not apply.

(ii) The date of any order respecting rehearing, and the date and terms of any order granting an extension of time to file the petition for a writ of certiorari; October 12, 2018 – Mandate for United States Court of Appeals ["USCA"] for the Ninth Circuit. Per Rule 13, Petitioner has 90 days from October 12, 2018 to file criminal appeal.

(iii) Express reliance on Rule 12.5, when a cross petition for a writ of certiorari is filed under that Rule, and the date of docketing of the petition for a writ of certiorari in connection with which the cross-petition is filed; N/A- Not Applicable

(iv) the statutory provision believed to confer on this Court jurisdiction to review on a writ of certiorari the judgment or order in question; See statement of jurisdiction (supra)

(v) If applicable, a statement that the notifications required by Rule 29.4(b) or (c) have been made.

Notifications per Rule 29(b) and (c) have been made. 28 U. S. C. § 2403(a),(b)

6.LEGAL DISCUSSION

1.) Civil Rights Act of 1964, due process rights under 14th Amendment. Title IX

Title IX made it easier to move civil rights cases from state courts to federal court. This was of crucial importance to civil rights activists who contended that they could not get fair trials in state courts.

1 2.) The Due Process Clause of the Fourteenth Amendment applies only against the states, but it is
2 otherwise textually identical to the Due Process Clause of the Fifth Amendment, which
3 applies against the federal government; both clauses have been interpreted to encompass
4 identical doctrines of procedural due process and substantive due process.^[78] Procedural due
5 process is the guarantee of a fair legal process when the government tries to interfere with a
6 person's protected interests in life, liberty, or property, and substantive due process is the
7 guarantee that the fundamental rights of citizens will not be encroached on by government.
8

9 3.) The Equal Protection Clause was created largely in response to the lack of equal protection
10 provided by law in states with Black Codes. Under Black Codes, blacks could not sue, give
11 evidence, or be witnesses. They also were punished more harshly than whites.^[117] In 1880,
12 the Supreme Court stated in Strauder v. West Virginia that the Equal Protection Clause was
13 The Clause mandates that individuals in similar situations be treated equally by the
14 law.^[118] Although the text of the Fourteenth Amendment applies the Equal Protection Clause
15 only against the states, the Supreme Court, since Bolling v. Sharpe (1954), has applied the
16 Clause against the federal government through the Due Process Clause of the Fifth
17 Amendment under a doctrine called "reverse incorporation."
18

19 In Yick Wo v. Hopkins (1886), the Supreme Court has clarified that the meaning of "person"
20 and "within its jurisdiction" in the Equal Protection Clause would not be limited to
21 discrimination against African Americans, but would extend to other races, colors, and
22 nationalities such as (in this case) legal aliens in the United States who are Chinese citizens:
23

24 4.) 4th Amendment The right of the people to be secure in their persons, houses, papers, and effects,
25 against unreasonable searches and seizures, shall not be violated, and no warrants shall issue,
26
27
28

1 but upon probable cause, supported by oath or affirmation, and particularly describing the
2 place to be searched, and the persons or things to be seized.

3 5.) The Sixth Amendment provides the right to confront

4 opposing witnesses and the right to effective assistance of counsel.

5 Due process further requires a meaningful opportunity to present a

6 complete defense. This opportunity includes the right to call

7 witnesses and the right to present argument.
8

9
10 6.) 28 US Code § 1442(a)–“Armed Forces Status”. Petitioner argues Veterans of the Armed Forces are covered

11 under “Armed Forces Status”; and thus have removal rights. Appellant requests judicial notice -

12 *A doctrine of evidence applied by a court that allows the court to recognize and accept the*
13 *existence of a particular fact commonly known by persons of average intelligence without*
14 *establishing its existence by admitting evidence in a civil or criminal action.*
15

16
17 7.) US Code § 1443 Under subsection (1) of § 1443, which pertinently provides for removal where

18 the action is "[a]gainst any person who is denied or cannot enforce" in the state courts "a

19 right under any law providing for . . . equal civil rights,"
20

21
22 8.) Petitioner claims unfair judicial proceedings pursuant to CCP § 397.

23
24 [Primer: additional CCP section 397 History/Primer: Petitioner dealt with judicial officer swaps
25 per LASC cases #E156106, #E551745, it also occurred with #SS025287 *Balik v. Mayor Rahm*
26 *Emanuel*, Civil Harassment case Santa Monica Superior Court, #ES126804 *People v. Balik*,
27 Santa Clara Superior Court, [Commissioner Copeland swapped for Commissioner Steingart],
28

1 Illinois Small Claims court case #14-SC-1572 and per Small claims case #15S01909, *Balik v.*
2 *Half Moon Hotel* , Inglewood Superior Court.#15S01909 morphed into #15K09399, *Balik v.*
3 *Half Moon Hotel*, LASC and finally #15cv02604 *Balik v. Half Moon Hotel*-- case was finally
4 resolved at Santa Barbara Superior Court per Inn Keepers statutes 1859/1860. Petitioner received
5 \$623.00 for a stolen iPhone 6 charger [by a rogue Pacific Division LAPD Officer] from Half
6 Moon Hotel counsel Frank A. Weiser. Petitioner dismissed case with prejudice on July 13th,
7 2016.]
8
9

- 10 9.) Together, *Twombly* and *Iqbal* have entirely reinterpreted Federal Rule of Civil Procedure 8(a)
11 and impose a heightened pleading standard requiring that allegations of unlawful conduct be
12 plausible, rather than merely possible. Petitioner's claims are plausible on their face and
13 should be accepted as true. *Iqbal*, 129 S.Ct at 1450 A claim for relief is facially plausible
14 when the Petitioner pleads enough facts, which, when taken as true, allow a court to draw a
15 reasonable inference that the Respondents are liable for the alleged conduct. *Id* at 1449
16
17
18 10.) Petitioner's civil rights pursuant to 42 U.S. Code § 1983; Every person who, under color
19 of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the
20 District of Columbia, subjects, or causes to be subjected, any citizen of the United States or
21 other person within the jurisdiction thereof to the deprivation of any rights, privileges, or
22 immunities secured by the Constitution and laws, shall be liable to the party injured in an
23 action at law, suit in equity, or other proper proceeding for redress, except that in any action
24 brought against a judicial officer for an act or omission taken in such officer's judicial
25 capacity, injunctive relief shall not be granted unless a declaratory decree was violated or
26 declaratory relief was unavailable.
27
28

1
2
3 **7.STATEMENT OF THE CASE - PROCEDURAL HISTORY**

4 On January 08, 2018 – Petitioner went to the Santa Barbara YMCA in the morning. After
5 workout, Petitioner drove to the California Highway Patrol office in Goleta, CA to drop off
6 information per #HM28192 & #BR053573 [See #B287954 [#B289423] 2nd Appellate District
7 and #LASC Stanley Mosk Appellate Division, *People v. Balik*, #BR053573 and LASC Torrance
8 case #T570850. Matters involve tinted window citations. Appellant is in the process of seeking
9 further declarative relief with the Supreme Court of California. Tinted windows and Veh Code §
10 26708(a) (1) are very ambiguous. *Klarfeld v. State of California (1983)* is not cutting it. Tinted
11 windows in California are medically permissible for individuals with skin issues/RX from
12 Physician. Petitioner wants to expand medical permissible/allowable windows to those with eye
13 issues. Petitioner also proffers tinted windows citations are money grab for the state of
14 California, which has a pecuniary interest in them.]

15
16
17 Petitioner was told by a California Highway Patrol officer there was a warrant for arrest.
18
19 Petitioner balked, chuckled, and asked under what grounds, who issued the warrant. California
20 Highway Patrol Officer could not answer question and promptly asked Petitioner to turn around
21 so that he could perform a body search. California Highway Patrol officer placed cuffs on
22 Petitioner and told Petitioner SBSO deputies would explain charges and show warrant upon
23 arrival.

24
25 While waiting for SBSO deputies to arrive, Petitioner sat in a back office room with three
26 California Highway Patrol officers. Petitioner asked them numerous questions in a quasi-cross
27 examination conversational way.
28

1 Once SBSO deputies arrived, they quickly flashed warrant and said Petitioner was under arrest
2 for stalking a Santa Barbara Superior Court Judge. Petitioner was incredulous and asked what
3 judge – SBSO deputies finally mentioned Judge James Herman. Petitioner laughed and said in
4 no way did Petitioner ever stalk a Judge let alone Judge Herman. Petitioner tweeted that Judge
5 Herman should be considered for a Federal bench in 2016/2017. Petitioner went on to say;
6 Petitioner sled a Christmas note under Judge Herman's chamber door, indicating Petitioner was
7 disappointed in his handling of traffic infraction trial #B777843. [Background note: Judge James
8 Herman presided over limited civil case #15cv02604, *Balik v. Half Moon Hotel*. Petitioner
9 settled case on July 13, 2016 for \$623.00 with Half Moon Hotel counsel Frank A. Weiser.
10 \$623.00 for a stolen \$19.00 iPhone charger. Judge Herman also showed up to the same Santa
11 Ynez YMCA as Petitioner in early 2016. Petitioner confirmed Judge James Herman
12 membership. Curiously, former presiding Judge Elaine Lu, #15K05516, *Balik v Chocolate*
13 *Shoppe Ice Cream Company, Inc*, LASC Stanley Mosk; showed up to the downtown Los
14 Angeles Ketchum YMCA in late September. Petitioner does not think YMCA encounters are
15 coincidental. To borrow from Yogi Berra, it is "too coincidental to be coincidence."]
16 Petitioner was taken to SBSO headquarters at 4434 Calle Real, Santa Barbara, CA 93110.
17 Petitioner met with Lieutenant Eddie and agreed to answer all questions. Petition was read
18 Miranda rights – SBSO glossed over attorney privileges. Petitioner was then told Petitioner was
19 being charged for battery on three SBSO deputies at the courthouse. SBSO deputies Matt
20 Dawson, Marty Ensign and Wayne Ikola. Assuming arguendo, why wasn't Petitioner arrested at
21 the time of alleged battery? Petitioner speaks to Lt. Eddie Hsueh {running for SBSO Sheriff} for
22 around an hour, in which "Upton's" name is mentioned. Subsequently, Lt. Eddie tells Petitioner,
23 Petitioner is being booked. Petitioner goes through all the booking procedures and is given a
24
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document that Petitioner is being charged for “stalking”. The only charge listed was stalking. Petitioner would spend until Friday morning, January 12th, in Santa Barbara County jail. [South tank], SBSO custody. Petitioner was unlawfully arrested and detained and tweeted the Montecito mudslide was God/Hashem/JCs wrath. In late December, Petitioner gave “Montecito Journal” magazines to Michael Bay/Brad Fuller’s assistant at Bay Films in Santa Monica, Pastor Steve Wilburn/Corechurch Los Angeles and Sister Sara Scott in Hiawatha, Iowa. [Side note: Petitioner met Brad Fuller, Michael Bay’s producing partner shortly getting out of SBSO custody in downtown Santa Monica. Petitioner got Brad Fuller’s wife Oprah tickets, when Brad was filming “Nightmare on Elm Street” in Chicago and Petitioner was working on Master’s degree at Northwestern University in Evanston, IL. Petitioner also got Michael Bay/Brad Fuller a welcoming package from US Senator Dick Durbin; when Michael Bay was filming “Transformers” in Chicago. Michael Bay/agents at CAA and WME/IMG Entertainment looked at Petitioner’s “Angels Camp 3D” movie project. “Angels Camp 3D” was a tent pole action thriller – Bigfoot v. Wendigo movie. Megan Fox [agent Chuck James] was ready to play a shape-shifting Bigfoot. Michael Bay also helped Petitioner get an expedited subpoena response from Viacom Legal [Bay Films has first look deal with Paramount Pictures] per #15cv02604, *Balik v. Half Moon Hotel*, Santa Barbara Superior Court]

1/10/2018 Arraignment hearing, SBSC, Judge Clifford Anderson III: rescheduled to 1/11/2018.

Petitioner met with public defender Rachel Solomon. Public Defender read statements from SBSO deputies. Petitioner heard inconsistencies in their statements. Petitioner gave Public Defender document showing charge of stalking and stated there is not a scintilla of evidence.

1 At arraignment hearing, Petitioner pled not guilty, stipulated to bail conditions. Bail was set at
2 \$10,000. Veterans Treatment Court hearing was set for 1/19/2018. After hearing, Public
3 Defender Solomon told Petitioner stalking charges had been dropped.
4 Petitioner posted bail on 1/11/2018 with Aladdin Bail bonds in Santa Maria, CA. Aladdin took
5 possession of Petitioner personal items. On 1/12/2018, Petitioner is released at or around 5:30
6 AM. Petitioner gets vehicle out of impound [impound via California Highway Patrol] and drives
7 to Santa Maria, CA to meet and sign paperwork with Aladdin bail bonds.
8
9

10 **1/19/2018 – Veteran Treatment Court pursuant to Penal Code §1170.9 [“VTC”], Judge**
11 **Monica Marlow:** Petitioner meets with new public defender Addison Steele. Petitioner does not
12 qualify for Veterans Treatment Court [not enough deployment time in theater]. Petitioner also is
13 not interested in Veterans Treatment Court, because it presupposes a certain level of guilt.
14 Petitioner did nothing wrong and did not commit battery on SBSO deputies. Petitioner is given
15 next hearing of 1/26/2018. [Per aforementioned, Judge Carrozzo is now presiding over VTC.
16 SBSC, DA and public defender may try to “push” VTC on Petitioner yet again.
17
18
19

20 ***Petitioner files motion to dismiss [via mail] pursuant to PenCode § 1385, not accepted**
21 **because it was not done through counsel/public defender.**
22

23 ***1/24/2018 –** Petitioner abandons Appeals for #S249977 [SBSO] and #B777843 [Santa Barbara
24 Police Dept.]. Petitioner thought if Petitioner abandoned appeals; perhaps Santa Barbara County
25 District Attorney’s office [Asst DA Marguerite Charles] would drop #18cr00264. Petitioner also
26 thought a fair judicial proceeding would not occur. Within Santa Barbara Superior Court;
27 Petitioner has litigated five traffic infractions cases, **#HM28192, #S260840, #B777843,**
28

1 #S249977 & #S228630. None of them has been dismissed. Compare this to Los Angeles
2 Superior Court & Santa Clara Superior Court. #C415857 dismissed, #1046287 Appellant pled no
3 contest, fine suspended, #E156106 case and fine suspended, police misconduct, #E551745 in
4 Appeal, matter may reach Supreme Court of California, #T570850 two charges dismissed, third
5 one may be suspended June 11, 2018, #E126804 dismissed in May/2017 Santa Clara Superior
6 Court. #AB305501 LASC Torrance Courthouse, fine significantly reduced.

7
8 Petitioner alleges substantive due process violations within Santa Barbara Superior Court – see
9 Lochner v New York (1905),
10

11 **1/26/2018 Readiness & Settlement Conference, Judge Michael Carrozzo:** Petitioner dealt
12 previously with Judge Carrozzo per traffic infractions #s260840 and #HM28192. Petitioner
13 moved Judge Carrozzo via pleadings and got reduced traffic fines based upon military service.
14 Petitioner briefly met with new public defendant Mary Huft. Mary is pregnant and going on
15 maternity leave. Mary asks about Veterans Treatment court and Petitioner explains Petitioner is
16 not eligible nor does Petitioner want to pursue it. Petitioner's hearing is at 8:30 AM – Petitioner
17 does not go before Judge Carrozzo until afternoon calendar. The call list was not that long. At or
18 around 2:00 PM, Judge Carrozzo calls instant case #18CR00264. Public Defender Huft ask about
19 Veterans Treatment Court as an option. Petitioner tells Judge Carrozzo Petitioner is not eligible
20 and that Petitioner wants a jury trial. Matter gets continued to March 23, 2018. Object of
21 proceeding was not met. Why would Santa Barbara County Public Defender's office assign
22 Petitioner to Mary Huft, when they know she is going on maternity leave? Sensing fair judicial
23 proceedings are not happening with SBSC, Petitioner decides to remove matter to Federal.
24
25
26
27
28

1 **2/08/2018** Petitioner files Notice of Removal to Federal/USDC Central District of California
2 #18cr00063. Petitioner also files removal under #2:17-cv-04906-GW-PLA. Petitioner did this
3 because IFP had been granted by the USCA 9th Circuit per #17cv56066. Petitioner filed
4 motion/notice of motion and got on calendar per Judge Wu's law and motion open dates. Judge
5 Wu denied Petitioner pending judicial review by USCA 9th Circuit. Since panel Judge Stephen
6 Reinhardt's passing, matter has been in limbo – no ruling. **2/12/2018** Judge Fitzgerald denies
7 removal and remands matter to Santa Barbara Superior Court. Ask Santa Barbara Superior Court
8 Clerk to acknowledge remand. SBSC did not acknowledge remand per electronic docket at
9 www.sbcourts.org Dkt #3 **2/14/2018** Petitioner files appeal to USCA 9th Circuit.
10
11

12
13 **3/23/2018 Readiness & Settlement Conference, Judge Michael Carrozzo:** Petitioner has a
14 new public defender Susan M. Sindelar. Judge Carrozzo explains he is being transferred to VTC
15 court and that Judge Thomas Adams in Department 10 will be handling instant misdemeanor
16 case. Matter is continued, pending whether US Attorney Ashley Aull would answer Petitioners
17 AOB. Per briefing schedule, US Attorney Aull had until May 16, 2018 to file a response. US
18 Attorney Aull did not respond, further evidence of Santa Barbara County District Attorney
19 Michelle Loakes very weak charge/case.
20
21

22 **5/23/2018 Readiness & Settlement Conference, Judge Thomas Adams:** Petitioner has drafted
23 motion to dismiss briefs pursuant to Pen Code 1385 for SBCPD Sindelar to file. Petitioner texted
24 and emailed SBCPD Sindelar with no response to date. Petitioner understands SBCPD's have a
25 very heavy caseload, however, a little communication outside hearings is desired. Additionally,
26 because SBCPD office is located in SBSC Anacapa division, Petitioner cannot go to office.
27
28

1 **Effective Assistance of Counsel**

2 In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial
3 jury of the State and district wherein the crime shall have been committed, which district shall have been
4 previously ascertained by law, and to be informed of the nature and cause of the accusation; to be
5 confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his
6 favor, and to have the Assistance of Counsel for his defense.
7

8
9 **5/23/2018 – 2/20/2019 Readiness & Settlement Conference, Judge Thomas Adams – PC § 1050's**
10 **granted. Two motions filed – Motion for Dismissal PC § 1385 denied and Motion for Discovery. Santa**
11 **Barbara District Attorney Michelle Loakes turned over audio from SBSO intake interview.**
12

13 **2/22/2019 – Tentative Trial date, set for 4-5 days.**
14
15
16

17 **7.STATEMENT OF FACTS/COUNTS**
18
19
20

21 11.) Petitioner alleges encounters with SBSO deputies were enabled by technology. Petitioner
22 alleges SBSO deputies gained Petitioners whereabouts to try to create problem incidences or
23 run ins. Petitioner never had any issues with SBSO deputies during #15cv02604 limited civil
24 case. Case was filed 8/21/2015 – Petitioner dismissed case with prejudice 6/13/2016. SBSO
25 is listed as a non-party to case. Petitioner subpoenaed SBSO and Michelle Montez, Santa
26 Barbara County Counsel answered subpoena and filed a declaration of SBSO Under Sheriff
27 Samuel L. Gross. After Petitioner filed a “1983” complaint, with SBSO as a co-defendant,
28

1 See #16-16555, *Balik v. City of Cedar Falls, et al*, USCA 9th Circuit; Petitioner started
2 noticing SBSO deputies showing up more frequently. Petitioner proffers frequency increase
3 or more “run-ins” with SBSO deputies is due to technology/pinging phones. Petitioner offers
4 FedEx Office Legal CD as evidence to “pinging”. FedEx Office CD contains IP surveillance;
5 video tape backup of incident that occurred on 22MAY17, at the Mountain View, CA FedEx
6 Office. Appellant will file motion to transmit exhibit.

7
8 12.) Petitioner finds the dismissal of #16-16555 *Balik v. City of Cedar Falls, et al*, Ninth Circuit
9 Court of Appeals highly curious. Perhaps #S249977 and #B777843 trial secret
10 recordings/transcripts were used and given to panel Judges. State of California was on the
11 hook for 7/8 figures/monetary damages.
12
13 9Cir dismissal incorporated herein: [1 – 10 pg. 10]

14
15 UNITED STATES COURT OF APPEALS
16 FOR THE NINTH CIRCUIT

17 JEREMIAH W. BALIK, Plaintiff-
18 Appellant, v. CITY OF CEDAR FALLS;
et al., Defendants-Appellees.

No. 16-16555 D.C. No. 5:16-cv-04070-
LHK Northern District of California, San
Jose

19 ORDER

20 FILED AUG 16 2017 MOLLY C. DWYER, CLERK U.S. COURT OF APPEALS
Before: SCHROEDER, HAWKINS, and N.R. SMITH, Circuit Judges.

21 Upon a review of the record, the responses to the court’s March 17, 2017 order, and the opening briefs
22 received on December 13, 2016 and April 17, 2017 we conclude this appeal is frivolous. We therefore
23 deny appellant’s motion to proceed in forma pauperis (Docket Entry No. 7), *see* 28 U.S.C. § 1915(a),
and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e) (2) (court shall dismiss case at any
time, if court determines it is frivolous or malicious).

24 All other pending motions are denied as moot.

DISMISSED.

25
26 Case: 16-16555, 08/16/2017, ID: 10546780, DktEntry: 30, Page 1 of 1
27
28

13.) Additional Background Primer: On or about June 23, 2015; Petitioner received call from Detective Zimmerman with the Washington, DC Capitol Police (202) 224-9806 Per the conversation, Mayor Rahm Emanuel & US Congressman Fred Upton were implicated in various pending litigation. Rep Fred Upton was implicated in Case #15K05516, Los Angeles Superior Court ["LASC"], Hon Patricia Nieto, Dept 77. [Judge Nieto would later recuse herself, and then came Judge Hammock. Judge Hammock delayed justice and then left July 2016. Judge Elaine Lu and Judge Yolanda Orozco came in next, now Judge Torres-Rizk/Judge Takasugi presiding.] Petitioner sent Rep. Fred Upton/staffers a postcard, stating if case went to trial, Rep Fred Upton would be subpoenaed. Petitioner also emailed Rep Fred Upton's staffers at mark.ratner@mail.house.gov and bits.thomas@mail.house.gov Petitioner also filed Civil Harassment on Rep Fred Upton, case# 1:15-CV-01419-AWI-JLT /US District Court, Eastern District of California. Chocolate Shoppe Ice Cream Company, Inc. never answered complaint – Petitioner moved LASC for Default Judgment pursuant to CCP § 585.

Petitioner alleges, Rep Fred Upton unduly influenced staff members in the Default Department to sit on paperwork. Petitioner was told by LASC Default Judgment Dept staffers that the case file was missing. Petitioner was told that Robert Cruz/Default Dept. Rm 118 was working on case – Robert Cruz retires in the month of September/2015. Petitioner was then told that Charlotte Ramos aka "Char" was working on case – Char gives Petitioner excuses and run around. Since this case implicates Rep Fred Upton, Petitioner believes Rep Upton is postponing justice. Petitioner has an OCS/DJ hearing July 13th, 2017. [Note: Court enjoined copies of Summons were stolen per #15K05516. Petitioner filed Declaration of Lost Summons after service done by Elite Process Service. Petitioner also had the presence of mind, to post picture of Summons on Twitter account, handle @appdriventoys on May 8th, 2015] LASC reissued

1 Summons on July 13th, 2017. Also see related case 56-2015-00474489-CL-BC-VTA, Ventura
2 Superior Court. Case dismissed October 10, 2018.

3 #17-cv-00455-WHA/17-15280 [SCOTUS #16-9022] – complaint is against Chocolate Shoppe
4 Ice Cream Company, Inc, City of San Bernardino [SBPD] and Rodeway Inn San Bernardino. In
5 Federal complaint, Defendant alleges Rep. Fred Upton had a rogue San Bernardino Police Dept.,
6 Officer steal “Summons” per LASC case #15k05516. The theft happened at Rodeway Inn San
7 Bernardino. A hotel front desk worker “Patty”, suggested Appellant park in a place out of the
8 purview of IP surveillance cameras. [Later found this out]

9
10 Petitioner brings up “Chocolate Shoppe Ice Cream” civil cases; because Rep. Fred Upton has
11 been, corruptly trying to get cases dismissed and uses citations as “bargaining chips”. [E.g., 4
12 points in a year and one’s driving privileges can be suspended]

13
14 Petitioner petitioned for a writ of certiorari to THE SUPREME COURT OF THE UNITED
15 STATES. Chocolate Shoppe case has been docketed, #16-9022. Justices met September 25, 2017
16 – certiorari was not granted. Petitioner is aware SCOTUS has discretionary jurisdiction,
17 however, this was a high profile case.
18

19 20 **8.ARGUMENT/REASONS FOR GRANTING THE WRIT**

21 USCA 9th Circuit erred. Harmful Legal Errors occurred per #18CR00063-MWF/18CR00264. *Stare*
22 *decisis* -- “to stand by things decided.” Petitioner meets the criteria for removal under 42 US Code §
23 1443 per *Georgia v. Rachel and Hamm v. City of Rock Hill*. Petitioner invokes Civil Rights Act of 1964
24 due process violations under the 14th Amendment. The Civil Rights Act creates federal statutory rights
25 which, under the Supremacy Clause, must prevail over any conflicting state laws. Petitioner also invokes
26 “Armed Forces Status” under 28 US Code § 1442(a). Removal should be granted as a matter of law. Lastly,
27
28

1 Petitioner highlights the five Santa Barbara Superior Court traffic infraction cases as further evidence of lack of justice
2 fairness. Petitioner had five guilty convictions. Conversely, Petitioner fared far better within Los Angeles and Santa Clara
3 Superior Courts. [2017 to present] Two dismissals, one {possibly two} suspension of case and fine, one suspension of fine
4 and one matter that may be heard before the Supreme Court of California. Corollary is striking between Santa Barbara
5 Superior and Los Angeles/Santa Clara Superior Court. With the aforementioned results, Petitioner asks, would the Court
6 want its children, family friends being tried in Santa Barbara Superior Court?
7

8 Additional background info: In 2014, Petitioners' *California DMV Abstract* was blank. Since
9 that time, Petitioner has received 18 citations: #81827TN – 8/01/2015, California Highway Patrol,
10 for license plate holder obstructing [Wisconsin] state license plate. #C908266* – 7/3/2015, Los
11 Angeles Police Dept., unsafe lane change. Citation was quashed. #AA467296 – 7/25/2015, Los
12 Angeles County Sheriff's Dept., Veh Code section 22350 unsafe speed – citation was dismissed at
13 trial. #549894CH – 7/12/2015, Citrus Heights Police Dept., ["CHPD"] CHPD was unlawfully
14 patrolling – Petitioner received moving violation. Petitioner never received any notice in the mail
15 from Sacramento Superior Court + thought and understanding was reached to drop citation – matter
16 would later result in a license suspension in Santa Clara County. #7-16-TR-484154 – Santa Clara
17 Police Dept., did an unlawful staged set up. Petitioner did an illegal U-turn to protest and engage in a
18 civil dialogue. Citation turned into ticket after trial, Petitioner paid it and received traffic school.
19 Traffic school was completed in Burbank. #S228630 – 5/31/16, Santa Barbara County Sheriff's
20 Dept., out of state registration/license. Petitioner registered vehicle at Culver City DMV on June 2nd,
21 2016. Judge Anderle dismissed matter on correction at trial. #K365852 [Case #C1648983] –
22 9/4/2016, Santa Clara PD., alleged suspended license based on Citrus Heights PD., ticket. Assuming
23 arguendo how was Petitioner able to register vehicle in California and have a valid driver's license
24 on June 2nd, 2016 in Culver City? Shady. Petitioner worked out plea deal with Santa Clara District
25
26
27
28

1 Attorney Jeffrey Rosen's office, pled no contest, received zero points and paid \$92.00 [+around
2 \$1600.00 for CHPD ticket etc] #16135380 – July 15th, 2016, San Diego County Sheriff's
3 Dept.,["SDSD"] 5190 medical hold after getting in a verbal spat with a "professional instigator of
4 the Robert Creamer kind" at a Valero gas station in Encinitas. Performed a battery of test, passed
5 them all – released from medical facility. Matter dismissed. Petitioner subpoenaed records and San
6 SDSD did not release information.

7
8 #C415857 – 11/23/2016, Pasadena PD., using bright lights – matter was dismissed 3/10/17 by
9 Commissioner Mary Lou Byrne. #E156106 underlying case to Appellate case #BR053325.
10 #E156106 was "suspended" 1/3/2018 Police misconduct and #E551745 - 1/9/201, LAPD, very
11 ambiguous Veh Code § 26708 – tinted windows. Highly curious, how no other law enforcement
12 agency cited Appellant for tinted windows. #ES126804 – 1/30/2017, Santa Clara PD., Veh Code §
13 22107. Yet another unlawful citation – retaliation, Appellant had just filed #17-cv-00455-WHA in
14 the USDC – Northern District of California. Case implicates US Congressman Fred Upton. Also
15 retaliation, because Santa Clara Police Dept., is a co-defendant per #16-16555 / Ninth Circuit Court
16 of Appeals. #ES126804 was dismissed by CMMR Steinhart 22MAY17. #S249977 & #S260840
17 SBSO. #B777843 Santa Barbara PD, #HM28192 California Highway Patrol in Santa Barbara,
18 #T570850 Torrance PD; #1046287 Glendale PD [J-walking like citation] and #AB305501 LASD on
19 08MAR18. #SBA8TR0527001, *People v. Balik*, LASC Torrance Courthouse.

20
21
22 Petitioner also received around a dozen parking tickets [E.g. Santa Clara County Sheriff's Dept at
23 Stanford University – visiting law school] Petitioner may also have a red-light camera violation via
24 Metro LA. Red-light camera alleged violation involves shenanigans. [San Fernando Valley Area]
25
26
27
28

1 Again, Petitioners' *California DMW Abstract* was blank in 2014. The delta or variable between 2014
2 to present; is civil litigation that implicates shady, corrupt, lying, hateful politicians. [E.g. DQ Mayor
3 Rahm Emanuel and US Rep Fred S. Upton]

4 In conclusion, SCOTUS has recognized that "Our Nation has a long tradition of according leniency
5 to veterans in recognition of their service...." (*Porter v. McCollum*, (2009) 130 S.Ct. 447, 455-456.

6 In *Porter*, the Court favorably cited California Penal Code section 1170.9 which allows for
7 alternative sentencing of veterans involved in the criminal justice system. While Penal Code §1170.9
8 is not directly relevant in this case, its enactment demonstrates that the California State Legislature
9 also recognizes there are circumstances where, because of service to the nation, a veteran warrants
10 special consideration and leniency in sentencing. Granting all U.S. Veterans the legal right to
11 remove State matters to Federal pursuant to 28 US Code § 1442(a), would be in keeping with our
12 Nations long standing tradition of according leniency. There are 21.8 million veterans of the U.S.
13 armed forces as of 2014, according the Census Bureau - to put that in context there are 319.2 million
14 Americans, according to the bureau. This matter has nationwide significance and meets the criteria
15 for granting certiorari.
16
17
18

19 CONCLUSION-ARGUMENT

20
21 Petitioner found out who Petitioners biological Mother is this fall via technology enablement/social
22 media. Petitioner's biological Mother is Dr. Susan Kostick, a lovely Jewish woman living in a Seattle
23 suburb. Baruch Hashem. Petitioner met model/singer Lindsey Rae Kevitch at Ta'eem Grill in Los
24 Angeles in late 2014. Petitioner had a Sprint iPhone at the time – Lindsey Kevitch's Dad Andrew Guy
25 Kevitch works for Sprint in New York City. Petitioner wonders if the meeting was coincidental.
26 Petitioners gut said meeting Lindsey Kevitch Israeli restaurant meeting was "too coincidental to be a
27 coincidence" – Yogi Berra Petitioner and Lindsey Kevitch would later fall in love each other; Petitioner
28 and Lindsey Kevitch are no longer together. Petitioner also spoke with Andrew Kevitch, whom is a

1 stand-up guy. Petitioner is grateful for the meeting and attributes it to technology enablement.
2 Petitioners Operation Iraqi Freedom friend, Doug Pierce, tried to commit suicide in 2014. Doug drove to
3 Northern Wisconsin to commit suicide; thank God, Dane County Sheriff pinged Doug's US Cellular
4 smart phone – triangulated off the nearest cell tower and got Doug's location before he could do any
5 harm. Petitioner moved to Madison, WI for 6 months as support to Doug, fiancée Beth & family. Great
6 use of technology enablement...The days of coincidental run-ins are truly ending. Using technology to
7 gain someone's whereabouts can be used to do great things in one instance and deceitful in other
8 instances. Petitioner agrees with former FBI Director James Comey; in that most of law enforcement is
9 good and does the right things. Petitioner use to sell technology to law enforcement from 4.9 GHz
10 wireless connectivity, to wireless broadband cards for squad cars to IP Surveillance cameras for crime-
11 ridden areas. Petitioner is all for law enforcement pinging smart devices/cell phones to get bad people
12 off the street. Abuses will come with the technology abilities – we “cannot throw out the baby with the
13 dirty bath water. “ [Idiomatic expression for an avoidable error in which something good is eliminated
14 when trying to get rid of something bad, or in other words, rejecting the favorable along with the
15 unfavorable.]

16 As the Court noted, a rise in “1983” complaints will most likely occur, this is not necessarily a bad
17 thing. [See *Balik v. City of Torrance, et al*, #2:18cv02174-RFB, USDC District of Nevada]

18 Petitioner knows that SBSO Deputies used technology to increase encounters with Petitioner within
19 SBSC Courthouses, to try and create incidences. Petitioner deems this quasi-entrapment.

20
21 The petition for a writ of certiorari should be granted. The Court may wish to consider summary
22 reversal, or vacate for reconsideration.

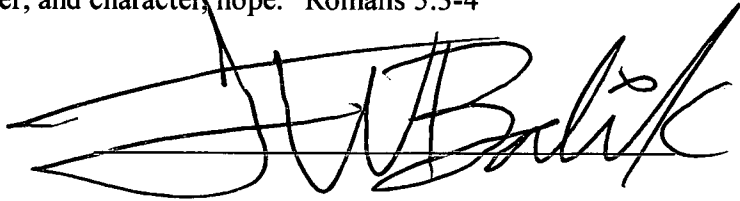
23
24 FOR THESE REASONS, the Petitioner also hopes and prays that this Court grants removal under 28 US
25 Code § 1442(a), 1443. Petitioner respectfully prays that a writ of certiorari issue to review the judgment above.
26 For the sake of judicial efficiency, Petitioner hopes and prays the Court dismisses criminal matter in its
27 entirety; or that the Court reverses the US Court of Appeals, for the Ninth Circuit and US District Court
28

1 ruling and remands case with new District Court Judge [Judge Fitzgerald to recuse himself sua sponte].

2 Lastly, Petitioner prays Court grant removal rights to all U.S. Veterans under 28 US Code § 1442(a).

3 “³Not only so, but we also glory in our sufferings, because we know that suffering produces
4 perseverance; ⁴perseverance, character; and character, hope.” Romans 5:3-4

5 The Audacity of Hope.
6

7 

8 Jeremiah W. Balik, Pro Per

9 Dated: 01JAN19, @ LA Air Force Base
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11 PS Petitioner’s favorite beer is Wisconsin’s New Glarus “Spotted Cow”
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